

**REMARKS**

Claims 26-35 remain in this application. Claim 36-46 have been canceled. Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page(s) is/are captioned "Version with markings to show changes made".

**Restriction Requirement**

Applicants have canceled the Group II claims without prejudice, and plan to pursue them in a previously filed divisional application; therefore, the restriction requirement is moot.

**35 USC §112 Rejection**

Claim 36 is rejected under 35 USC §112, first paragraph, as being predicated on an insufficient disclosure. Applicants traverse this rejection; however, in an effort to move this application to allowance, claim 36 was canceled above; therefore, this rejection is moot.

**35 USC §103 Rejections**

The Office Action rejected claims 26-30 and 36 under 35 U.S.C. 103(a) as being unpatentable over the patent to Kuethe (5,155,969 – cited by applicant). The Office Action states:

"The Kuethe device comprises a plurality of carriers (16) carrying containers (25), a plurality of vertically moveable lifts (68, 70, 72 and 74), a plurality of platens (52, 54, 56, 58) one on each of the lifts, a plurality of mandrels (44, 46, 48, 50) above the platens and a lidstock maneuvering system (30+) for placing a lidstock sheet between the containers on the carriers and the mandrels which seal the lidstock to the containers to form a set of packages. The packages are subsequently separated after leaving the machine. The main difference between the machine of Kuethe and the claimed invention is the number of containers on each platen. The Kuethe devices uses two containers 25 and 26 on each platen but it would have been obvious to one of ordinary skilled in the art to use one or any number of containers since the number is merely

Serial No. 09/217,878

a matter of design consideration and duplication of parts. Furthermore, the number of containers being operated on is merely a matter of experimentation to develop the optimum and most efficient machine operation. Regarding the number of mandrels used, it is well known in the art to use a single mandrel to seal a plurality of containers if individual control of the sealing operation is not necessary or desired. It is therefore would have been obvious to one of ordinary skilled in the art to use a single mandrel in the Kuethe machine to seal a plurality of containers. The specific product being packages is given little patentable significance in apparatus claims since it does not affect the structure of the device."

Applicants traverse this rejection. Applicants' invention is an apparatus for packaging contact lenses in a plurality of contact lens containers, each container having a recess, a sealing flange about said recess, and a contact lens within said recess, a plurality of said containers being sealed in said apparatus to a contiguous lidstock to form a set of packages. Applicants invention provides an apparatus that can deliver to each container in a set of packages a sealing pressure within a desired range so that the container is properly sealed and not over-sealed. Kuethe does not teach nor suggest an apparatus like Applicants' claimed invention nor one that will provide that benefit.

Kuethe does not teach nor suggest Applicants' invention which has individual containers having individual recesses in each container on an individual carrier mounted on individual platens, and a single mandrel to seal multiple containers into a set of packages. Kuethe teaches containers having multiple recesses, and multiple containers mounted on each platen. The Office Action states that Kuethe discloses that the containers are sealed to form a set of packages that are subsequently separated after leaving the machine. Applicants did not see where that was disclosed in Kuethe.

The Office Action also states that Kuethe discloses a plurality of mandrels 44, 46, 48 and 50. Kuethe's mandrels 44, 46, 48 and 50 are used to form the vacuum chambers and are not used for sealing the lidstock to the container. Applicants' mandrels, as claimed, are used for sealing the lidstock to the containers. Kuethe's sealing mandrels are 84 and 86; however, the

Serial No. 09/217,878

operation of the sealing mandrels is not fully described within Kuethe. It is not known if the mandrels 84 and 86 are operated individually or jointly. Therefore, Kuethe provides no teaching nor suggestion that a single mandrel should operate on a plurality of individual containers, each on a single carrier and supported by an individual platen to form a set of packages. The Office Action states: "It is well-known in the art to use a single mandrel to seal a plurality of containers if individual control of the sealing operation is not necessary or desired." Applicants claim a single mandrel to seal a plurality of containers, and Applicants' invention provides individual control of the sealing operation, which Kuethe does not teach nor suggest.

The focus of the Kuethe invention is the application of vacuum to containers prior to sealing them. Kuethe does not address how to improve the process of sealing the lidstock to the containers, nor does Kuethe even recognize that its process of sealing of multiple containers supported by a single platen might cause problems with the seals. Applicants discovered the problem and addressed it by their invention.

It is therefore respectfully requested that the 35 USC §103 rejection under Kuethe of claims 26-30 be withdrawn.

The Office Action rejected claims 31-35 under 35 USC §103. The Office Action further states:

Claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Kuethe in view of Edwards (5,565,059) – cited by applicant) or Edwards (5,528,878). The patent to Kuethe does not specifically teach the inspection of the packages. The patents to Edwards shows a contact lens packaging system wherein an inspection system verifies the proper alignment of the printed matter on the lidstock within the machine (see column 8, lines 30-36 and column 10, line 1, respectively). It would have been obvious to one skilled in the art to provide the packaging a system of Kuethe with an inspection system such as disclosed by Edwards to ensure proper registration of the lidstock with the containers.

Serial No. 09/217,878

Applicants traverse this rejection. Although both Edwards references disclose an inspection system, the Edwards references add nothing to the teaching of Kuethe as discussed above to make Applicants invention obvious. Edwards does not provide an apparatus having individual containers on individual carriers supported by individual platens; therefore, it is respectfully requested that the 35 USC §103 rejection based on Kuethe in view of Edwards be withdrawn.

The Office Action rejected claims 26-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Ciba Geigy (WO 98/32587) - cited by applicant). The Office Action states:

"The Ciba device comprises a plurality of carriers (1) carrying containers (3), a plurality of vertically moveable lifts (61), a plurality of platens (top portions of 61) one on each of the lifts, a plurality of mandrels (70) above the platens and a lidstock maneuvering system for placing a lidstock sheet between the containers on the carriers and the mandrels which seal the lidstock to the containers to form a set of packages. The main difference between the machine of Ciba and the claimed invention is the number of containers on each platen. The Ciba devices uses more than one container on each platen but it would have been obvious to one of ordinary skilled in the art to use one or any number of containers since the number is merely a matter of design consideration and duplication of parts. Furthermore, the number of containers being operated on is merely a matter of experimentation to develop the optimum and most efficient machine operation. Regarding the number of mandrels used, it is well known in the art to use a single mandrel to seal a plurality of containers if individual control of the sealing operation is not necessary or desired. It is therefore would have been obvious to one of ordinary skilled in the art to use a single mandrel in the Ciba machine to seal a plurality of containers."

Serial No. 09/217,878

Applicants traverse this rejection. WO 98/32587 does not teach nor suggest Applicants' invention. WO 98/32587 discloses a carrier carrying multiple containers. Applicants' invention provides an individual carrier for each container. This aspect of Applicants' invention is not merely a matter of design consideration and duplication of parts. The individual carriers make it possible for the individual platens, supported by the individual cylinders to provide a preferred amount of sealing pressure to each container against a mandrel. Additionally, the individual carriers, as described in the specification make it possible to remove an individual carrier and container prior to the sealing step if necessary, as compared to the removal of a carrier that has multiple containers thereon. If a defective lens or container is discovered on the carrier disclosed in WO 98/32587, the entire carrier would be rejected and multiple good lenses and containers would be disposed of with the one defective lens or container. The Office Action states: "Regarding the number of mandrels used, it is well known in the art to use a single mandrel to seal a plurality of containers if individual control of the sealing operation is not necessary or desired. It is therefore would have been obvious to one of ordinary skilled in the art to use a single mandrel in the Ciba machine to seal a plurality of containers." Applicants traverse that statement. If a single mandrel were used in WO 98/32587, that would provide no ability to adjust the temperature on the containers used to form a set of packages which would defeat the purposes of WO 98/32587. Therefore, it is not taught nor suggested to change the disclosure of WO 98/32587 to provide Applicants' invention. Therefore it is respectfully requested that the 35 USC §103 rejection based on WO 98/32587 be withdrawn.

The Office Action rejected claims 26-28, 35 and 36 under 35 U.S.C. 102(b) as being clearly anticipated by Giovannone (5,379,572) in view of Kuethe. The Office Action states:

"The patent to Giovannone shows a packaging machine which comprises a plurality of carriers (read on the portion of the conveyor holding/pushing each blister), a plurality of vertically moveable lifts 22, 32, 42, a plurality of platens 26, 36, 46 on the lifts, a plurality of mandrels 20, 30, 40 above the platens and a lidstock maneuvering system 16 for placing lidstock between the blisters on the carriers and the mandrels which seal the lidstock to the blisters. It would have been obvious to one of ordinary skilled in the art to provide the lidstock of

Serial No. 09/217,878

Giovannone in a continuous sheet form that is subsequently cut to any size as shown by Kuethe to ease the positioning of the lidstock in the sealing mechanism. The specific product being packages is given little patentable significance in apparatus claims since it does not affect the structure of the device."

As stated in the earlier responses, Giovannone does not teach the formation of a set of packages comprising individual containers that are held together by a contiguous lidstock. Further, Giovannone does not disclose discrete carriers for the containers; a conveyor is not a discrete carrier. Giovannone shows no conveyor means in the figure, and does not describe any element that could be Applicants' discrete carriers. Giovannone does not disclose a plurality of platens located next to one another. As shown, the platens in Giovannone are spaced apart. Giovannone does not teach a lidstock maneuvering system that places a contiguous lidstock over a plurality of containers located adjacent to one another. Giovannone places a single lidstock over a single blister, and Giovannone does not disclose sealing a contiguous lidstock to a plurality of containers to form a set of packages. Again, Giovannone discloses the formation of a single blister package. The Office Action states that it would be obvious to modify Giovannone in view of Kuethe; however, there is no teaching nor suggestion in Giovannone to provide the lidstock of Giovannone in a continuous sheet form that is subsequently cut to any size as shown by Kuethe to ease the positioning of the lidstock in the sealing mechanism. There is no teaching in the cited references to do what the Office Action just described. The combination of the references must therefore be due to an impermissible hindsight reconstruction of the references; therefore, it is respectfully requested that this rejection be withdrawn.

The Office Action rejected claims 29-34 under 35 USC §103 as being unpatentable over the patent to Giovannone in view of Kuethe (as applied above) and further in view of Edwards (5,565,059 - cited by applicant) or Edwards (5,528,878). The Office Action states:

"The patent to Kuethe does not specifically teach the inspection of the packages. The patents to Edwards shows a contact lens packaging

Serial No. 09/217,878

system wherein an inspection system verifies the proper alignment of the printed matter on the lidstock within the machine (see column 8, lines 30-36 and column 10, line 1, respectively). It would have been obvious to one skilled in the art to provide the packaging a system of Kuesthe with an inspection system such as disclosed by Edwards to ensure proper registration of the lidstock with the containers."

Applicants traverse, and respectfully request reconsideration. Although the Edwards references teach sealing a lidstock to multiple containers to form a set of packages, and inspection of the printed matter, neither the Edwards references nor Giovannone, alone or in combination, teaches or suggests multiple platens and individual carriers to provide for improved sealing in a set of packages as Applicants have claimed. Therefore, Applicants request that the 35 U.S.C. §103 rejection be withdrawn.

Applicants believe they have invented a patentable apparatus that forms a set of packages. Applicants discovered that a plurality of containers can be sealed to a contiguous lidstock to form a set of packages in an apparatus which provides for multiple platens supporting individual carriers thereon. Applicants apparatus provides the pressure needed to each container and lidstock despite differences in thicknesses of the flanges of the containers or lidstock to provide improved sealing results. This improvement is not taught or suggested by any of the references cited by the Office Action. Therefore, Applicants request that the 35 U.S.C. §103 rejection be withdrawn.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By: 

Anne B. Kiernan  
Reg. No. 36,566

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-2724  
Dated: October 22, 2002

Serial No. 09/217,878

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims:**

Claims 36-46 were canceled herein.